

LAST MINUTE AGENDA INFORMATION

5/18/16 Regular City Council Meeting

(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the May 18, 2016 Regular meeting.)

<u>ITEM NO.</u>	<u>DESCRIPTION</u>
-----------------	--------------------

2.8	RESOLUTION NO. 2016-7712 AWARDED PUBLIC WORKS CONTRACT TO WIT: ELM AVENUE (7TH TO SEACOAST DRIVE) PROJECT NO. S13-309 TO PALM ENGINEERING CONSTRUCTION, INC. AND APPROPRIATING AN ADDITIONAL \$650,000 TO THE PROJECT BUDGET. (0720-10) a. Staff Report
------------	--



STAFF REPORT
CITY OF IMPERIAL BEACH

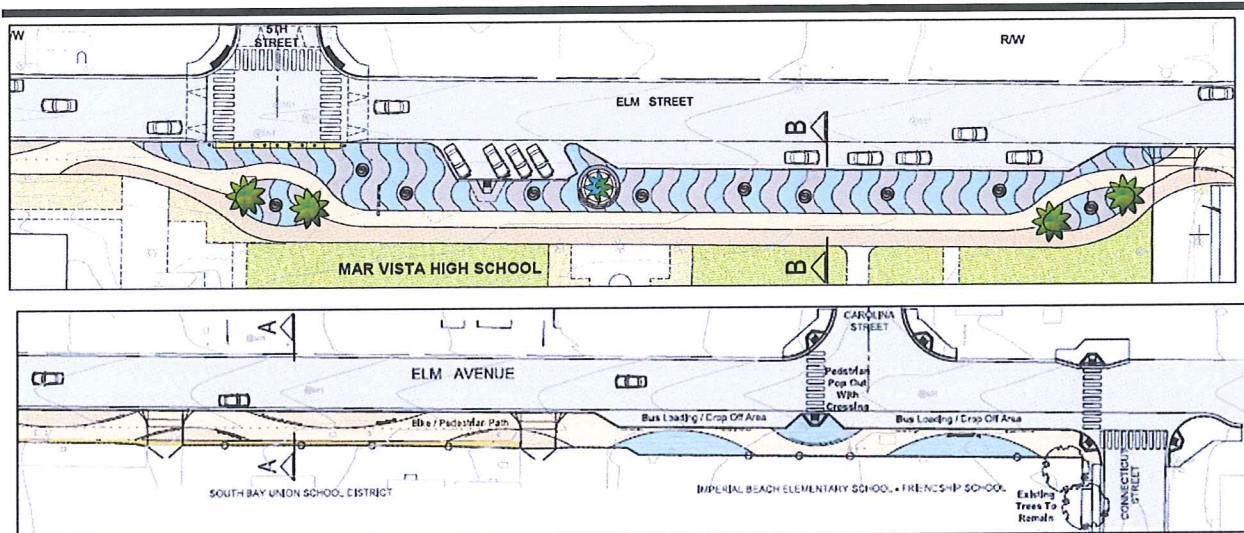
TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ANDY HALL, CITY MANAGER *AH*

MEETING DATE: MAY 18, 2016

ORIGINATING DEPT.: PUBLIC WORKS *AH*

SUBJECT: RESOLUTION NO. 2016-7712 AWARDED PUBLIC WORKS CONTRACT TO WIT: ELM AVENUE (7TH TO SEACOAST DRIVE) PROJECT NO. S13-309 TO PALM ENGINEERING CONSTRUCTION, INC. AND APPROPRIATING AN ADDITIONAL \$650,000 TO THE PROJECT BUDGET



EXECUTIVE SUMMARY:

Resolution No. 2016-7712 awards a contract for construction of the Elm Avenue (7th to Seacoast) Capital Improvement Program (CIP) project to the lowest responsive and qualified bidder Palm Engineering Construction Company, Inc. at \$1,693,030.41. In October 2014, City of Imperial Beach received a CALTRANS ATP Grant letter awarding the City \$709,000. This was eventually converted to a Safe Route to School Grant. In January 2015, the City was given authorization to expend funds from the grant. City staff and NV5 (City's consultant engineer) have coordinated the design and construction drawings of this project with the South Bay Union School District, Sweetwater Union School District, Imperial Beach Charter School, "Friendship School" and the neighboring residents. The Elm Avenue (7th to Seacoast Drive) project is designed using the "Complete Streets" concepts as required in the ATP Grant and TransNet. Elm Avenue Street Improvement project is funded by the ATP grant, TRANSNET and sewer enterprise fund. The scope of work includes various aesthetic improvements adjacent to the schools, a 16 foot wide walk way / bike way adjacent to the schools, dedicated student drop off / pick up area adjacent to Mar Vista High School, dedicated and upgraded bus loading and unloading zone for elementary and disabled students adjacent to the Connecticut Street

intersection, sewer pump station no. 3 flooding mitigation enhancements, upgrades to the Elm Avenue storm drain system, a raised speed table at the 5th Street intersection, ADA compliant improvements at Elm Avenue intersections and a street overlay from Seacoast Drive to 7th Street.

PAL General Engineering Inc., the lowest bidder at \$1,378,536.96, was evaluated non-responsive due to failure to include bid submittal qualifications and experience documentation for the specialty concrete finishes (Lithocrete). Pal General Engineering's representative claims that the company did not receive the bid from the subcontractor and was forced to submit the bid response without the required information. The email correspondence from Mr. Jahshan is attached. Staff recommends that the Council reject Pal General Engineering's bid as non-responsive because the contractor's response does not justify why a necessary portion of the bid response was not included.

Resolution No. 2016-7712 will also appropriate an additional \$300,000 Sewer Enterprise funds and \$350,000 of General Fund – Public Works funds increasing the total budget by \$650,000.

FISCAL ANALYSIS:

Appropriated Revenue:	ATP Grant	\$ 709,000
	TransNet funds City match	\$ 750,000
	Sewer funds	\$ 50,000
	Gas Tax FY 13/14	\$ 40,000
	TOTAL REVENUE	\$1,549,000
Expenditures:	Street Construction	\$1,448,990
	Sewer Upgrades	\$ 350,000
	Engineering Fee	\$ 400,000
	Soils Testing Geocon	\$ 10,000
	REVISED PROJECT BUDGET	\$2,199,000

If approved, resolution No. 2016-7712 will increase the project budget to \$2,199,000. There are sufficient Sewer Enterprise CIP funds and General Fund – Public Works funds to cover the additional costs for this project.

- FY2017 year-end estimate General Fund-Public Works: \$1,518,188 (account number: 101-5000-532.20-06)
- FY2017 year-end estimate Sewer Enterprise Undesignated Reserve: \$500,000 (account number 601-5060-536-2006).

RECOMMENDATION:

Adopt Resolution No. 2016-7712 awarding the contract for the Elm Avenue (7th to Seacoast Drive) project to Palm Engineering Construction Company, Inc. at a bid price of \$1,693,030.41 and appropriating an additional \$300,000 Sewer Enterprise funds and \$350,000 General Fund – Public Works to Project No. S13-309.

OPTIONS:

- Adopt Resolution No. 2016-7712 awarding the contract for the Elm Avenue (7th to Seacoast Drive) project to Palm Engineering Construction Company, Inc. at a bid price of \$1,693,030.41 and appropriating an additional \$300,000 Sewer Enterprise funds and \$350,000 General Fund – Public Works to Project No. S13-309;

- Reject Resolution No. 2016-7712 and not award the contract to Palm Engineering Construction Company; or
- Request additional information and an additional report

BACKGROUND/ANALYSIS:

The project design and specifications were completed at the end of March 2016. The project construction was advertised for bids March 30, 2016. A public bid opening was scheduled for Thursday April 28, 2016 @ 2:00 p.m. Bids were opened as scheduled. The following were the bid results:

1. Pal General Engineering Inc.	\$1,378,536.96
2. Palm Engineering Construction Company, Inc.	\$1,693,030.41
3. Hazard Construction	\$2,125,399.30
4. Kirk Paving Inc.	\$2,506,854.12

Engineer's estimate was \$1,611,203

ENVIRONMENTAL DETERMINATION:

Not a project as defined by CEQA.

Attachments:

1. Resolution No. 2016-7712
2. May 4, 2016 Email from Abd Jahshan

RESOLUTION NO. 2016-7712

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AWARDED PUBLIC WORKS CONTRACT TO WIT: ELM AVENUE (7TH TO SEACOAST DRIVE) PROJECT NO. S13-309 TO PALM ENGINEERING CONSTRUCTION, INC. AND APPROPRIATING AN ADDITIONAL \$650,000 TO THE PROJECT BUDGET

WHEREAS, in October 2014, City of Imperial Beach received a CALTRANS ATP Grant letter awarding the City \$709,000; and

WHEREAS, in January 2015, the City was given authorization to expend funds from the grant; and

WHEREAS, this was a total appropriated budget of \$1,549,000; and

WHEREAS, City staff and NV5 (City's consultant engineer) have coordinated the design and construction drawings of this project with the South Bay Union School District, Sweetwater Union School District, Imperial Beach Charter School, "Friendship School" and the neighboring residents; and

WHEREAS, the Elm Avenue (7th to Seacoast Drive) project is designed using the "Complete Streets" concepts as required in the ATP Grant and TransNet. Elm Avenue Street Improvement project is funded by the ATP grant, TRANSNET and sewer enterprise fund; and

WHEREAS, the scope of work includes various aesthetic improvements adjacent to the schools, a 16 foot wide walk way / bike way adjacent to the schools, dedicated student drop off / pick up area adjacent to Mar Vista High School, dedicated and upgraded bus loading and unloading zone for elementary and disabled students adjacent to the Connecticut Street intersection, sewer pump station nr. 3 flooding mitigation enhancements, upgrades to the Elm Avenue storm drain system, a raised speed table at the 5th Street intersection, ADA compliant improvements at Elm Avenue intersections and a street overlay from Seacoast Drive to 7th Street; and

WHEREAS, Project design and construction drawings were completed in March 2016; and

WHEREAS, the bid for construction of the Elm Avenue 7th to Seacoast Drive project was advertised March 30, 2016 and a public bid opening was held on April 28, 2016 at 2:00 p.m.; and

WHEREAS, Pal General Engineering Inc., the lowest bidder at \$1,378,536.96, was evaluated non-responsive due to failure to include bid submittal qualifications and experience documentation for the specialty concrete finishes (Lithocrete) as required; and

WHEREAS, Palm Engineering Construction Company, Inc. was the lowest responsive bidder at \$1,693,030.41; and

WHEREAS, the Engineer's construction estimate was \$1,611,203; and

WHEREAS, it is necessary to appropriate an additional \$300,000 Sewer Enterprise funds and \$350,000 of General Fund – Public Works funds increasing the total budget by \$650,000 to a new total of \$2,199,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The legislative body hereby rejects all proposals for bids except that identified as the lowest responsive, responsible and qualified bid. The bid of the lowest, responsive qualified bidder will be on file with the transcript of these proceedings and open for public inspection in the City Clerk Department on file as Contract No. _____.
3. The legislative body hereby approves the disqualification of the lowest cost bidder, PAL General Engineering, Inc., due to failure to include bid submittal qualifications and experience documentation for the specialty concrete finishes (Lithocrete) as required.
4. The legislative body appropriates an additional \$300,000 from the Sewer Enterprise Fund and an additional \$350,000 from the General Fund – Public Works account # account number: 101-5000-532.20-06 to CIP Project Nr. S13-309.
5. The City Manager is authorized to enter into an agreement with the lowest, responsive, responsible and qualified bidder, Palm Engineering Construction Company, Inc., for a total cost of \$1,693,030.41.
6. The Contractor shall not commence construction or order equipment until a Notice to Proceed has been received.
7. The works of improvement shall be constructed in the manner and form and in compliance with the requirements as set forth in the plans and specifications for the project.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 18th day of May 2016, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

SERGE DEDINA, MAYOR

ATTEST:

JACQUELINE M. HALD, MMC
CITY CLERK

Roberta Otero

From: Abd Jahshan
Sent: Wednesday, May 04, 2016 2:05 PM
To: Hank Levien
Cc: Victoria Madrid; Roberta Otero
Subject: RE: Elm Avenue Street Improvement Project Bid
Attachments: T.B. Panick Bid.pdf

Hi Mr. Levin;

I was going over the bid with our staff it turned out that the only one has that certification is TB Penick , unfortunately TB penick never sent a price to Pal engineering before the bid time ,as you could see from the bid line item our estimate came in below what TB Penick anticipated we had to turn in our bid without the certification since we have no other choice , attached you will find a copy of their proposal with the fax time on it , it seems they sent it to every other contractor but to Pal engineering .

Unfortunately it's an unfair situation here that the city requires a certain certification for a certain product that only could be provided by a certain subcontractor , and that subcontractor could dictate the market and decide who he want to his price to at the bid date , we believe it would be been more fair if the city ask for these requirements during the submittals process , its just a suggestion that might not satisfy the city attorney .

I also looked at page 92 , the city require a colored copy of the product at the bid time , im wondering if all other contractors complied with this requirement as well .

Finally we thank and appreciate the city of imperial beach business , we believe we performed a very successful projects in the past , we helped the city save money both ways , by getting discount at the bid time and also help completing the projects under budget , thru this bid we tried to continue our commitment of saving the city about 300K , and provide the city with a quality product , we understand the legality of it at the same time all contractors agree that the public agencies has to wave any or all irregularities in the bid whatever serves the public interests , and here we see that the city will be saving about 300K , which could be used in improving another street or whatever better use for tax payers money .

I tried my best to explain myself in this email and I still feel that im coming short , I would appreciate maybe an unofficial small hearing with yourself , city manager and city attorney to discuss the extent of this proposal , like I promised before we will do whatever makes the city happy and whatever they are comfortable with , unfortunately am looking at this as a unique situation as a contractor I don't think we could've done anything better than what we did already .

I hope this email wont offend anyone at the city as our main goal is always to continue the partnership between contractors and public agencies , please let me know if a little hearing could be accepted or not .

Regards
Abd Jahshan "AJ "
Vice President

ENR Ranked PAL Engineering As Top 100-CA Contractors
Checkout our Inc.com Profile
Like us on facebook!

PAL General Engineering Inc.
5374 Eastgate Mall | San Diego, CA 92121



IMPORTANT NOTICE: This message (including any attachments) may be privileged and/or confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error please notify the sender by return e-mail and delete this message from your system. Any unauthorized use or dissemination of this message or the attachments in whole or in part is strictly prohibited. Any views expressed in this e-mail are those of the individual sender, except where the sender specifies and with authority, states them to be the views of PAL General Engineering Inc.,...

Please consider the environment before printing this e-mail

From: Hank Levien [mailto:hlevien@imperialbeachca.gov]
Sent: Tuesday, May 3, 2016 4:46 PM
To: Abd Jahshan
Cc: Victoria Madrid <vmadrid@imperialbeachca.gov>, Roberta Otero <rotero@imperialbeachca.gov>
Subject: Elm Avenue Street Improvement Project Bid

A.J.,
I want to thank you and your company in submitting the proposal for the subject CIP project. However, after review of your project proposal we note that the bid did not include the requirement within the request for proposals as follows:
On page 87 – 92 of the bid document it prescribes a required element of the project bid. Page 68, paragraph # 29 further identifies the requirement of qualifications to perform this work. The last paragraph of page 92 states "The bidder must submit the above information along with color photos with the bid. Failure to submit the information and photos shall be considered a non-responsive bid and therefore the bidder shall be considered non-responsive."

Due to the absence of the required information with the bid submission the City has declared the PAL General Engineering, Inc. bid non-responsive. The City will proceed with recommending to City Council the awarding of the contract to the second lowest, responsible, and responsible bidder.

Since PAL General Engineering, Inc. has performed several projects within the City in recent years, I am reaching out to you as a professional courtesy to advise you of this decision.

We look forward the completion of the two outstanding CIP projects that are under contract with PAL General Engineering, Inc.

Thanks, Hank